

INQUIRY INTO 2020 REVIEW OF THE COMPULSORY THIRD PARTY INSURANCE SCHEME

Organisation: State Insurance Regulatory Authority (SIRA)

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Submission to the Standing Committee on Law and Justice 2020 Review of the Compulsory Third Party insurance and Lifetime Care and Support schemes

State Insurance Regulatory
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1. About SIRA

The State Insurance Regulatory Authority (SIRA) regulates three statutory insurance schemes in NSW – Compulsory Third Party (CTP), Workers Compensation, and Home Building Compensation. It also has some regulatory functions in other schemes including the Lifetime Care and Support and Dust Diseases schemes.

SIRA was created under section 17 of the *State Insurance and Care Governance Act 2015* (SICG Act). In establishing SIRA, the Government's intention was to *create a consistent and robust framework to monitor and enforce insurance and compensation legislation in NSW, and to ensure that public outcomes are achieved in relation to injured people, policy affordability and scheme sustainability*¹. SIRA's objectives and regulatory role are set out in section 23 of the SICG Act as follows:

- a) to promote the efficiency and viability of the insurance and compensation schemes established under the workers compensation and motor accidents legislation and the other Acts under which SIRA exercises functions
- b) to minimise the cost to the community of workplace injuries and injuries arising from motor accidents and to minimise the risks associated with such injuries
- c) to promote workplace injury prevention, effective injury management and return to work measures and programs
- d) to ensure that persons injured in the workplace or in motor accidents have access to treatment that will assist with their recovery
- e) to provide for the effective supervision of claims handling and disputes under the workers compensation and motor accidents legislation
- f) to promote compliance with the workers compensation and motor accidents legislation.

1.1. SIRA governance

SIRA is an independent agency within the Customer Service Cluster. The affairs of SIRA are managed and controlled by the Chief Executive in accordance with the general policies and strategic direction determined by the SIRA Board. Anything done by the Chief Executive on behalf of SIRA is taken to have been done by SIRA².

The functions of the SIRA Board are set out in section 18(5) of the SICG Act and include:

- determining the general policies and strategic direction of SIRA
- overseeing the performance of SIRA
- giving the Minister any information relating to the activities of SIRA that the Minister requests
- keeping the Minister informed of the general conduct of SIRA's activities and of any significant development in activities.

While SIRA is not, in the exercise of its functions, subject to the control and direction of the Minister, the Minister may give SIRA a written direction with respect to its functions if the Minister is satisfied that it is necessary to do so in the public interest. SIRA must include in its annual report particulars of each direction given by the Minister during the reporting year.

¹ Second Reading Speech, the *State Insurance and Care Governance Act 2015*.

² *State Insurance and Care Governance Act 2015*, s 19(3).

1.2. SIRA's regulatory approach

SIRA's role is to ensure that the schemes it regulates continue to be fair, effective and affordable for policy holders, and for people who make a claim today, or in the future. SIRA's regulatory approach has matured and adapted, including in response to the findings of the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* and the *Australian Prudential Regulation Authority Capability Review*.

Many key themes and issues arising from these reviews are important for SIRA and responding to changing community expectations regarding the role of regulators and regulated entities has been an important area of focus for the organisation.

Separation of policy and regulatory roles, and more focus on governance and culture

In 2019, SIRA changed its operating model and supervision framework to delineate policy, supervision and enforcement functions, and to increase focus on culture and governance. This included the creation of a new team dedicated to in-depth audits and performance reviews.

More visibility of regulatory action

SIRA commenced publishing information about compliance and enforcement on the SIRA website in July 2019. This decision followed close consideration of findings out of the Royal Commission regarding the importance of transparency and visibility of regulatory action in maintaining public trust.

SIRA's policy is to make information available unless there is an over-riding public interest against disclosure, including legislated obligations to protect privacy. This policy of transparency is in the best interest of customers and stakeholders, and will ultimately contribute to achieving sustainable, affordable, fair and effective schemes. In line with this approach, SIRA publishes information about enforcement action on the [SIRA website](#).

Making expectations, ways of working and priorities clear for policy holders, insurers, providers and injured people

As a regulator, one of SIRA's core responsibilities is to ensure compliance with the law. However, as a steward of compensation schemes, there are many other ways in which the organisation works to influence positive scheme outcomes. SIRA's broader CTP insurance responsibilities and objectives are set out in section 1.3(2) of the *Motor Accident Injuries Act 2017*.

SIRA has developed 10 principles to guide our regulatory approach. SIRA's 10 regulatory approach principles are:

1	Customer focus	Everything SIRA does is guided by protecting the interests of customers.
2	Responsiveness	SIRA is responsive to changing community expectations and to public scrutiny. Maintaining trust in SIRA and regulated schemes is central to our role.
3	Accountability	SIRA will take strong enforcement action when needed, based on the severity of harm or potential harm, the degree of negligence, or the need for deterrence.
4	Stewardship	Administering the law is part of SIRA's role. As a steward of statutory insurance schemes, SIRA also seeks to innovate, influence and engage others to support scheme outcomes.

5	Information	SIRA actively publishes information about scheme and provider performance and prioritises making more data more accessible and more valuable.
6	Consultation	SIRA consults widely and often to make better decisions and deliver better solutions.
7	Evidence	SIRA relies on evidence to do what works – not just what is expected or easy.
8	Innovation	SIRA is always looking for innovative ways to improve outcomes.
9	Efficiency	SIRA seeks to maximise value across all outcomes, build future capability through current challenges, leverage others' work and apply areas of excellence across schemes.
10	Fairness	SIRA makes expectations clear and treats everyone fairly and with respect.

1.3. Raising the bar on insurer customer service standards

SIRA released its Customer Service Conduct principles for people making a CTP or workers compensation claim in 2019. This has strengthened insurance industry standards by requiring that injured people are better supported. SIRA is committed to ensuring that customers have a positive claims experience, regardless of the insurer, as this will lead to improved recovery outcomes.

SIRA has developed a uniform set of principles to set a clear expectation that customers should be treated fairly and with respect. SIRA's principals are intended to work in conjunction with the individual conduct principles of each licensed insurer. SIRA is monitoring the performance of each CTP insurer against the Customer Service Conduct principles.

Principle 1: Be easy to engage and efficient

The insurer must keep customer interactions simple and accessible to make the experience easier, so that the focus is on recovery and resolution. This means:

- customers should only have to provide or ask for information once
- information is clear and understandable enabling a streamlined experience
- complexity is reduced by communicating in simple language
- information is timely and accessible
- customers will experience visible support and information throughout their customer journey.

Principle 2: Act fairly, with empathy and respect

The insurer must be respectful of people's individual circumstances and needs and support them accordingly. This means:

- customers are treated fairly, receiving the same quality services, every time
- customers are shown compassion and understanding of their individual situations
- customers are treated with dignity, empathy and respect.

Principle 3: Resolve customer concerns quickly, respect customers' time and be proactive

The insurer must be proactive in supporting recovery and resolution. This means:

- resolve customer concerns at the first opportunity

- customers are supported early, leading to better recovery outcomes and resolution
- customers' time is valued
- customers will be contacted when they need to know something.

Principle 4: Have systems in place to identify and address customer concerns

The insurer must have systems in place to engage customers and listen to concerns and suggestions. This means:

- customer views will be sought on service design and improvement
- insurers must ensure transparency in addressing systematic issues as they are identified and rectified
- continuous improvement systems are in place.

Principle 5: Be accountable for actions and honest in interactions with customers

Customers will receive an acknowledgement when things don't go to plan. This means:

- customers will receive an acknowledgement when harm is caused, when expectations are not met or when legislative breaches occur
- poor service or behavior will be acknowledged, and action taken.

2. Overview of the 2017 scheme

2.1. The 2017 CTP insurance scheme

CTP insurance, or Green Slip insurance, is mandatory for motor vehicles registered in NSW and covers drivers against liability for the injury or death of another person.

SIRA currently licenses and regulates five private insurers that underwrite the 2017 scheme which provide benefits for pedestrians, passengers, cyclists, motorcyclists, drivers of other vehicles and, to a limited extent, the driver at-fault. Claims are managed by the CTP insurer of the at-fault vehicle.

SIRA's functions are set out under section 10.1 of the *Motor Accidents Injuries Act 2017* (2017 Act and scheme). Benefits under the scheme are fully funded by premiums. The 2017 scheme applies to injuries resulting from a motor vehicle accident on or after 1 December 2017. People injured in a motor vehicle accident which occurred prior to 1 December 2017 are covered by the provisions of the *Motor Accidents Compensation Act 1999* (the 1999 scheme).

SIRA also manages the Nominal Defendant Fund, which ensures that people injured on NSW roads by an uninsured or unidentified vehicle can also claim scheme benefits.

The Motor Accident Injuries Regulation 2017 (the Regulation) contains provisions that supplement the application and operation of the Act in several key areas.

SIRA issues Motor Accident Guidelines under the 2017 Act which establish clear processes and procedures, and outline scheme objectives and compliance requirements. The Guidelines describe and clarify expectations that apply to respective stakeholders in the scheme.

SIRA also has responsibility for administration of the Fund Levy, which appears as a separate charge on Green slips. The Fund Levy comprises:

- **Motor Accidents Operational Fund (MAOF)** which pays for: initial public hospital and ambulance services for anyone injured on NSW roads; the costs of running the CTP insurance scheme (including support services such as CTP Assist, the Disputes Resolution Service (DRS) and vocational and return to work support); fraud reduction; and fees to Transport for NSW to administer the registration process.

- **Lifetime Care and Support Scheme (LTCS) Fund** which covers the lifetime treatment, rehabilitation and care of people who have been severely injured on NSW roads, regardless of who was at fault. To be eligible for the LTCS scheme, severe injury criteria must be met.
- **Motor Accident Injuries Treatment and Care Benefits Fund (MAITC)** known as the CTP Care program which provides treatment and care for people with needs five years after the motor accident.

2.2. Benefits: a shift from compensation to recovery

A major aspect of the 2017 scheme is the focus on recovery from injury. The 2017 scheme aims to support injured people by providing fast access to payments for medical treatment and loss of income. This is to assist them to return to work or their other pre-injury activities.

Rather than negotiating future medical expenses for a lump sum, medical treatment and commercial attendant care are now provided under statutory benefits (personal injury benefits), for life if needed.

Most injured people³, regardless of fault, are entitled to claim statutory benefits for up to 26 weeks. Statutory benefits include defined benefits for weekly income payments if the person is an earner, medical and treatment costs, and commercial attendant care. A motorcycle rider in a single person accident is also eligible for these benefits under the 2017 scheme.

People with ‘minor injuries’ as defined in the 2017 Act (that is, soft tissue and/or minor psychological or psychiatric injuries) or those who are wholly or mostly at-fault in an accident are limited to 26 weeks of weekly payments of statutory benefits. As a safety net, people with minor injuries will receive further treatment and care benefits if this will improve their recovery. [See section 4\(d\)](#) for more information on SIRA’s Review of the Minor Injury Definition in the NSW 2017 scheme.

The maximum weekly payment period for a person whose injury is not minor and who was not the person mostly at-fault in the accident, is up to 104 weeks unless the person has a pending damages claim.

A claim for damages may still be made under the 2017 scheme, but these claims are now limited to damages for economic and non-economic loss (e.g. pain and suffering). No damages may be awarded to an injured person if their injuries resulting from the motor accident were minor injuries.

To encourage recovery, people with less serious injuries [which is calculated at 10 percent or less Whole Person Impairment (WPI) ⁴] can apply for damages only after 20 months. The most seriously injured, with a WPI calculation of greater than 10 percent, can immediately claim damages for future economic and non-economic loss. As in the 1999 scheme, only people who are not at fault can apply for damages or lump sum compensation.

An injured person who has a pending claim for damages may claim statutory benefits for loss of earnings or earning capacity for up to:

- 156 weeks if the degree of permanent impairment is not greater than 10 percent, and
- 260 weeks if the degree of permanent impairment is greater than 10 percent.

After five years from the date of the accident the CTP Care program (managed by icare) will become responsible for paying for reasonable and necessary treatment and care instead of the CTP insurer. CTP Care is separate to the Lifetime Care and Support Scheme (LTCS) which is also managed by icare. See [section 14](#) for more information on LTCS scheme and the CTP Care program.

³ Exceptions to this general rule are listed under [Division 3.5](#) of the 2017 Act, such as where the injured driver has committed a serious driving offence, or where workers compensation is available.

⁴ WPI is the degree of permanent impairment of an injured person as a result of an injury caused by a motor accident.

When a person dies as a result of a motor accident, compensation is available for close relatives who were financially dependent on the deceased person, most commonly partners or children of the deceased. To be eligible for this compensation the deceased person must have been not-at-fault in the accident. Unlike the 1999 scheme, funeral expenses can be claimed under the 2017 scheme for anyone who has died in a motor accident, regardless of fault.

2017 scheme benefits and damages at a glance

Benefits/damages type	At fault	Not at fault (benefits and/or damages may be adjusted for part fault)		
	All	Minor injuries ¹	Non-minor WPI ² ≤ 10%	Non-minor WPI > 10%
Ambulance and hospital emergency treatment	Available for anyone injured in a motor vehicle accident			
Weekly benefits payments for loss of earnings	Up to 6 months	Up to 6 months	Up to 3 years	Up to 5 years
Damages for future economic loss	No	No	Yes (after 20 months)	Yes
Damages for non-economic loss (e.g. pain and suffering)	No	No	No	Yes
Treatment and care benefits	Up to 6 months	Up to 6 months	Lifetime (LTCA ³ after 5 years)	Lifetime (LTCA after 5 years)
Funeral expenses	Available whether at fault or not at fault			
Damages for dependants in compensation to relatives claims	No	No	Yes (WPI threshold not relevant)	
Legal and other expenses	Available as prescribed under the 2017 Act and Regulations			

1. Minor injuries: soft tissue and/or minor psychological or psychiatric injuries

2. WPI: whole person impairment

3. LTCSA is the Lifetime Care and Support Authority

Note: This is a simplified explanation of the scheme's benefits and claimants' ability to claim damages under the 2017 Act. It does not reflect every claimant's circumstances.

3. Scheme performance outlook

The next table and graph show the claims experience for the first accident year of the scheme (13 months: accidents occurring between 1 December 2017 and 31 December 2018) as at 30 June 2020. Key observations include:

- Over 99 percent of expected statutory benefit claims have been lodged
- The 26-week benefit entitlement period for at fault and not at fault minor injury claims has ended for all claims in the first accident year.

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- More than 91 percent of expected claims for damages are yet to be made. These claims account for approximately 70 percent of total expected claim costs.
- The key milestone of 20 months at which time non-minor claims with WPI of 10 percent or less are eligible to make a damages claim has now passed. (This milestone is from 1 August 2019 for people who lodged a claim on the first day of the scheme. For those who lodged on 31 December 2018 the date after which they can lodge is 1 September 2020.)
- The financial performance of the scheme will be better understood as the award of damages claims experience progresses: as the scheme matures.

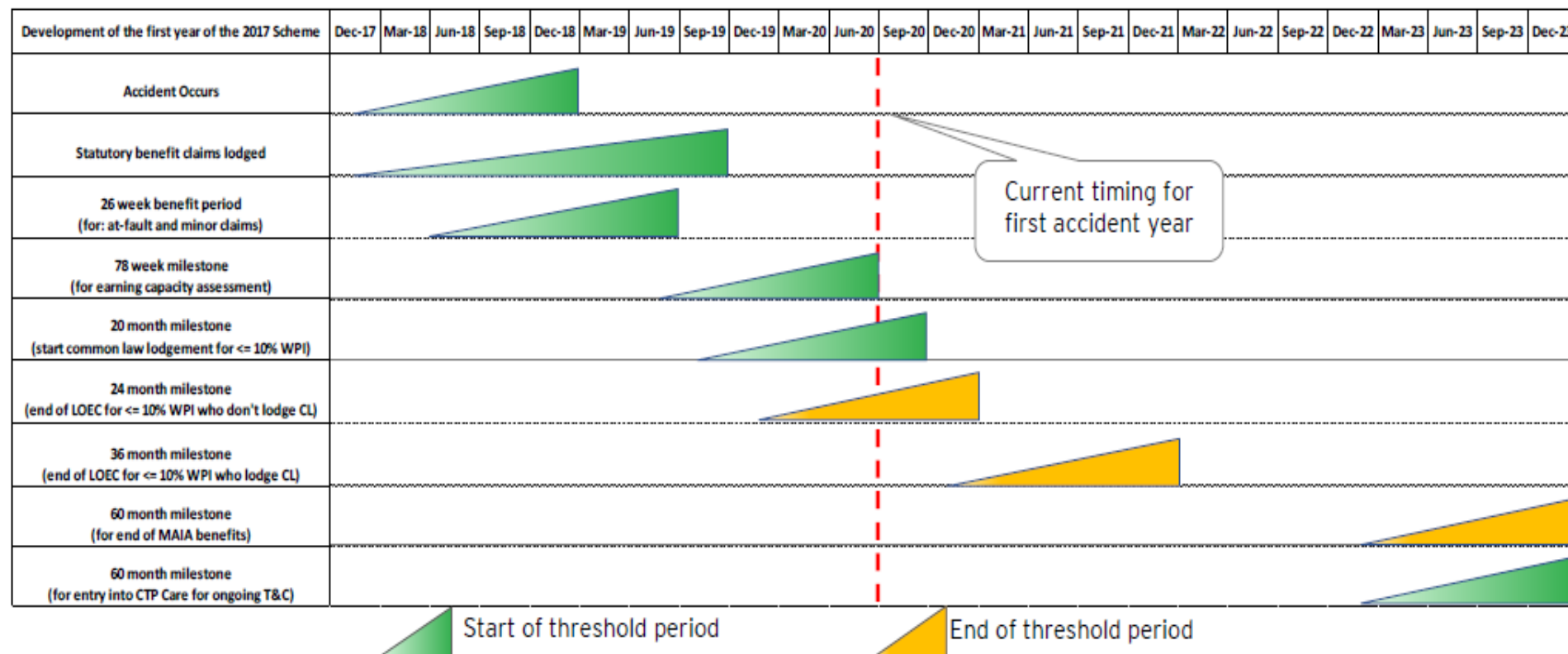
Key Legislative Milestones (See graph attached)

Development of the first year of 2017 Scheme	Threshold period
Accident Occurs	Dec-17 to Dec-18
Statutory benefit claims lodged	Dec-17 to Sep-19
26-week benefit period (for at-fault and minor claims)"	Jun-18 to Jun-19
78-week milestone (for earning capacity assessment)	Jun-19 to Jun-20
20-month milestone (start common law lodgement for <= 10% WPI)	Sep-19 to Sep-20
24-month milestone (end of LOEC for <=10% WPI who don't lodge CL)	Dec-19 to Dec-20
36-month milestone (end of LOEC for <=10% WPI who lodge CL)	Dec-20 to Dec-21
60-month milestone (for end of MAIA benefits)	Dec-22 to Dec-23
60-month milestone (for entry into CTP Care for ongoing T&C)	Dec-22 to Dec-23

- WPI refers to Whole Person Impairment.
- LOEC refers to Loss of Earning Capacity.
- CL refers to Common Law.
- MAIA refers to the Motor Accident Injuries Act 2017.
- T&C refers to Treatment and Care

Diagram: development of the first year of the 2017 scheme

For the first accident year the scheme still has key milestones to be met.



- WPI refers to Whole Person Impairment.
- LOEC refers to Loss of Earning Capacity.
- CL refers to Common Law.
- MAIA refers to the *Motor Accident Injuries Act 2017*.
- T&C refers to Treatment and Care

Claim numbers for the first, second and third accident years (2017/18, 2019 and 2020)

Total claim numbers for the first and second accident years are tracking in line with expected experience. Total claims numbers for the third accident year have only had six months of experience as at 30 June 2020.

All claims: reported and expected to 30 June 2020

First accident year (13 months)	Reported to date	13,489
	Expected ultimate	13,559
Second accident year	Reported to date	12,447
	Expected ultimate	12,875
Third accident year	Reported to date	3,817
	Expected ultimate	11,515

Statutory benefit claim numbers for the first and second accident years are tracking in line with expected experience.

Statutory benefit claims: reported and expected to 30 June 2020

First accident year (13 months)	Reported to date	12,103
	Expected ultimate	12,114
Second accident year	Reported to date	11,164
	Expected ultimate	11,309
Third accident year	Reported to date	3,540
	Expected ultimate	10,117

At fault claims

First accident year (13 months)	Reported to date	2,107
	Expected ultimate	2,107
Second accident year	Reported to date	2,056
	Expected ultimate	2,089
Third accident year	Reported to date	390
	Expected ultimate	1,787

Not at fault minor claims

First accident year (13 months)	Reported to date	6,118
	Expected ultimate	6,097
Second accident year	Reported to date	5,470
	Expected ultimate	5,434
Third accident year	Reported to date	1,185
	Expected ultimate	4,758

Not at fault non minor claims

First accident year (13 months)	Reported to date	3,794
	Expected ultimate	3,910
Second accident year	Reported to date	3,294
	Expected ultimate	3,786
Third accident year	Reported to date	683
	Expected ultimate	3,572

Non statutory benefit claims

First accident year (13 months)	Reported to date	819
	Expected ultimate	874
Second accident year	Reported to date	771
	Expected ultimate	978
Third accident year	Reported to date	150
	Expected ultimate	879

Expected total number of early notification claims*

1 st Accident year (13 months)	Reported to date	567
	Expected ultimate	571
2 nd Accident year	Reported to date	512
	Expected ultimate	588
3 rd Accident year	Reported to date	127
	Expected ultimate	518

*Early notifications that are not expected to progress to become a statutory benefit claim

Most claims for damages have not yet been lodged as at 30 June 2020. This reflects the 2017 scheme design where injured people with WPI less than or equal to 10 percent cannot lodge a claim for damages until 20 months after the accident. Also, the availability of statutory benefits in the interim may reduce a person's urgency to lodge a claim for damages.

Claims for Damages

First accident year (13 months)	Reported to date	345
	Expected ultimate	3,658
Second accident year	Reported to date	21
	Expected ultimate	3,539
Third accident year	Reported to date	1
	Expected ultimate	3,392

For the first accident year of the scheme 1 December 2017 – 31 December 2018, it is estimated that over \$1.2 billion will be paid. The chart below illustrates the expected payment pattern of the scheme for the first accident year split by statutory benefits and lump sum payments.

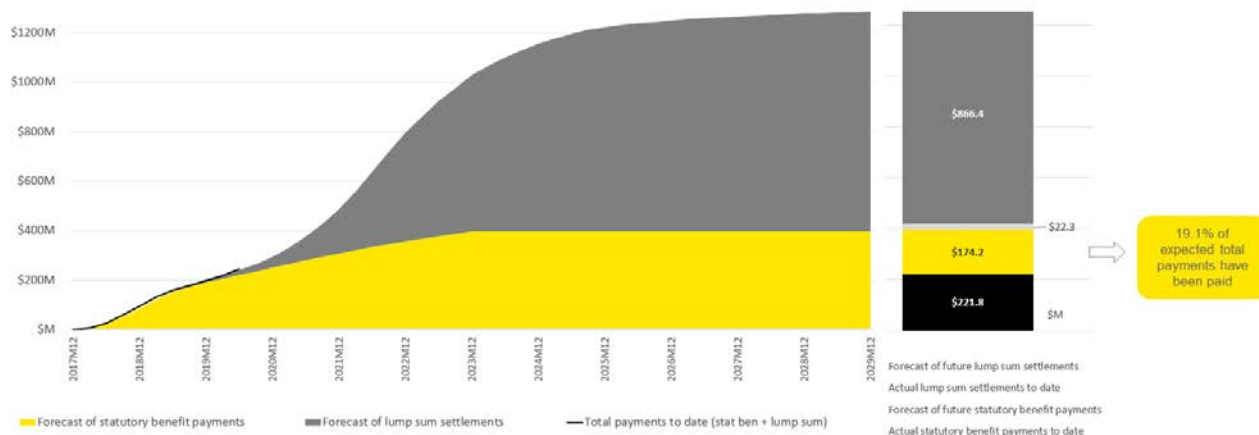
The graph also shows that a material component of claims costs in relation to the award of damages has yet to be paid. As at June 30, 2020, total payments to date account for 19.1 percent (\$221.8 million) of the total expected payments for the first accident year. Approximately 70 percent (approximately \$866.4 million) of the expected claims costs are for the award of damages claims.

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The availability of statutory benefits enables an injured person to maximise their recovery before lodging a damages claim after 20 months (for those with a WPI of less than or equal to 10 percent) or at any time (for those with WPI of 10 percent or greater). The earliest time for the claims to be made is after December 2019.

As at 30 June 2020, there have been \$221.8 million payments relating to statutory benefit payments and \$22.3 million payments relating to lump sums for the first accident year.

Expected claim payments first accident year



Payments: 1 December 2017 to 30 June 2020

Payment Type	\$ Amount
Weekly payments	181,318,739
Treatment and Care expenses	209,502,037
Funeral expenses	6,754,005
Insurer investigation ⁵	19,612,200
Insurer medico-legal	3,190,471
Insurer legal	2,048,457
Claimant legal	3,205,820
Future economic loss ⁶	9,717, 949
Non-economic loss	12,052,295
Past economic loss	2,162,042
Non-NSW CTP claims ⁷	21,088,371
Recoveries	-5,356,935
Other ⁸	-4,529
Total	\$465,290,921⁹

⁵ Includes factual investigations, treating medical reports and surveillance investigations.

⁶ Includes a small proportion of payments (0.1%) related to 'funds management', which refers to payments for the management of trusts for injured persons aged under 18 and others with legal incapacities.

⁷ Includes payments for interstate claims, workers compensation claims or a combination of these.

⁸ Reflects 23 instances where incorrect or no payment codes were provided.

⁹ Rounding

Scheme efficiency measure

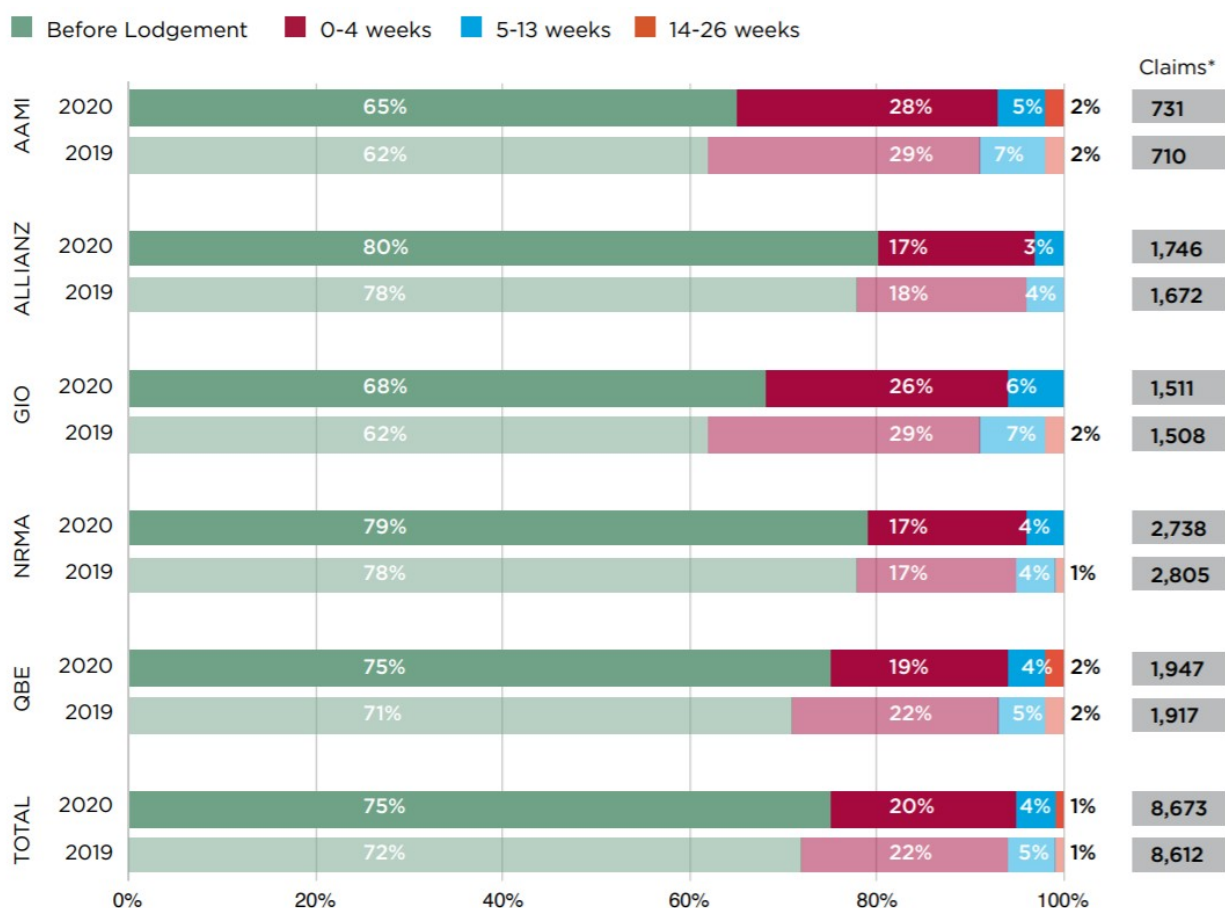
The efficiency of the scheme is a key measure of scheme performance and value for money. A NSW Government objective for the 2017 scheme was to increase the proportion of benefits provided to the more seriously injured road users. The Government target was for 57 cents in every Green Slip dollar going to claimants as benefits (this excludes GST and LTCS levy). As noted previously, 91 percent of damages claims have not been lodged and approximately 70 percent of total expected claim costs have not been expended for the first accident year. It is therefore too early for scheme efficiency to be assessed.

4. Effectiveness of the 2017 scheme in achieving its policy objectives

Meeting key objectives of section 1.3 (2) of the 2017 Act

a) To encourage the early and appropriate treatment and care to achieve optimal recovery outcomes and to maximise their return to work or other activities

Time it takes to receive treatment and care* (in weeks)

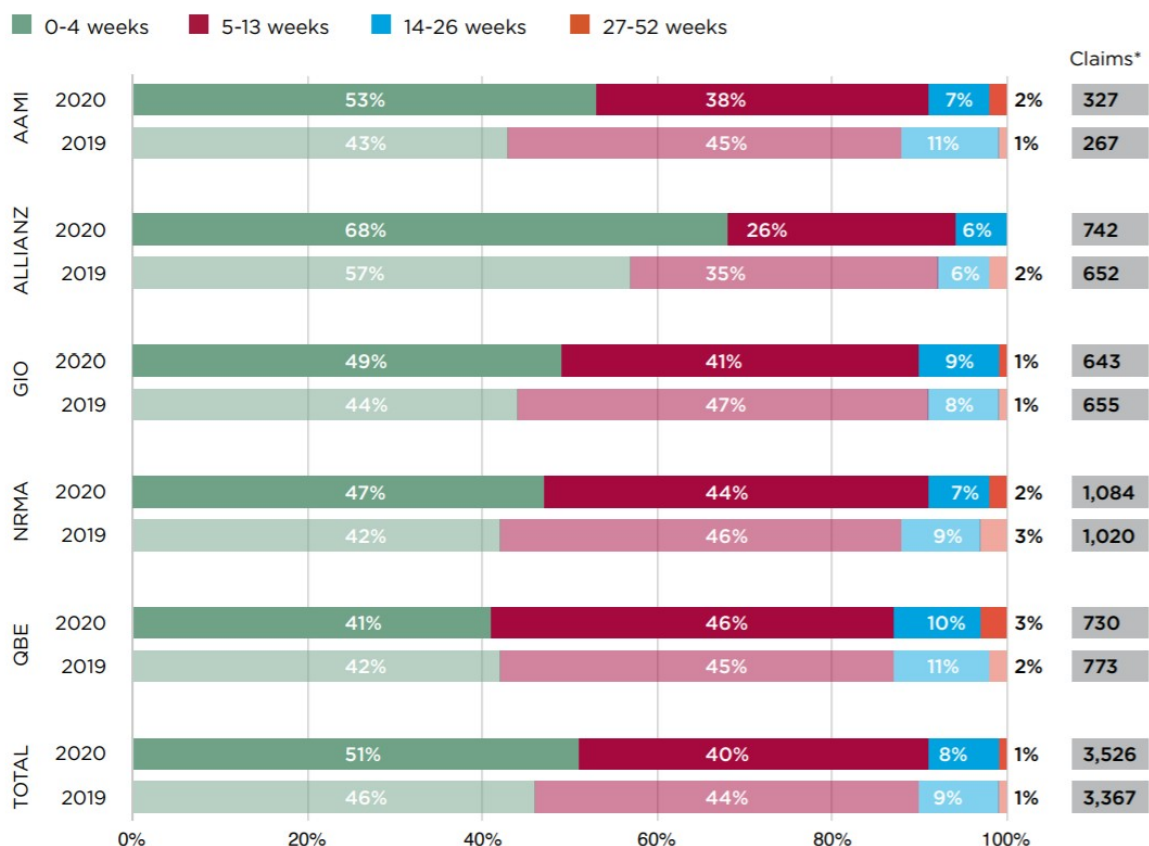


*For the periods 1 July 2018- 30 June 2019 and 1 July 2019 to 30 June 2020

Seventy-five percent of injured people received 'pre-claim support' in 2020, with a further 20 percent accessing treatment and care services within the first month after lodging a claim. This result is an improvement on 2019, where seventy-two percent of customers accessed treatment and care benefits prior to formally lodging a claim. In the period from 1 December 2017 to 30 June 2020, over 1,200 people have been provided with treatment and care before lodgement of a claim.

b) To provide early and ongoing financial support for persons injured in motor accidents

Time it takes to receive income support* (in weeks)



*For the periods 1 July 2018- 30 June 2019 and 1 July 2019 to 30 June 2020

Half of customers entitled to income support payments received it within the first month of lodging a claim, with the vast majority receiving income support payments within 13 weeks.

The sooner the insurer receives the relevant information from the customer, the sooner the insurer can begin to pay income support payments. Overall, 90 percent of customers receive income benefits within the first month of having a claim, compared to a wait of 18 months to five years under the 1999 scheme. As at 30 June 2020, 57 percent of statutory benefit claims are for financial support.

c) To continue to make third-party bodily insurance compulsory for all owners of motor vehicles registered in New South Wales

More than 5.7 million Green Slip policies are sold in NSW each year. Customers are required to buy a new Green Slip prior to being able to register their motor vehicle. Customers can purchase a Green Slip by obtaining a quote online or over the phone through a licensed insurer.

SIRA's Green Slip Check increases transparency so that motorists get the best possible price, and it is the quickest and easiest way to quote and purchase CTP insurance.

In September 2020, SIRA announced the approval to issue a CTP licence to a sixth insurer Youi, which is anticipated to enter the market from 1 December 2020. A new insurer entering the scheme will increase competition between insurers, further encouraging premium affordability for motorists.

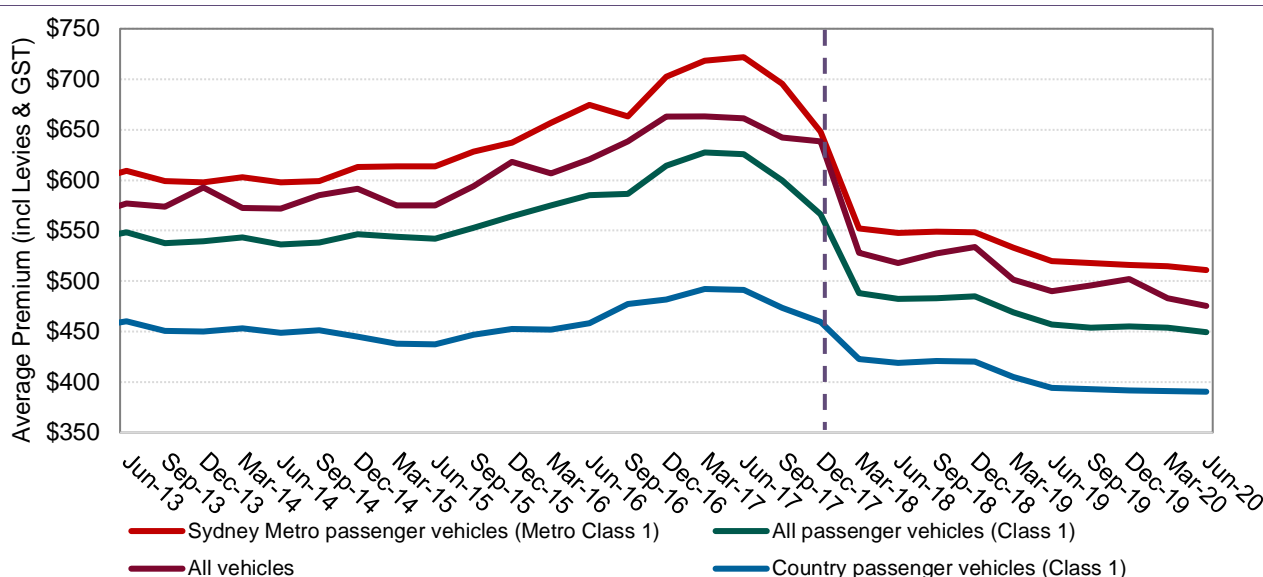
d) To keep CTP premiums affordable by ensuring that profits achieved by insurers do not exceed the amount that is sufficient to underwrite the relevant risk are not excessive and by limiting the benefits payable by minor injuries

Average Green Slip premium prices have decreased every year since the introduction of the 2017 scheme.

Green Slip premiums have reduced by 34 percent under the 2017 scheme, from an average (all vehicles) of \$635 pre reform, to an average of \$449 at 30 June 2020. At the commencement of the 2017 scheme on 1 December 2017, the Green Slip average premium target price was set at \$528 per annum for all NSW vehicles. The current average premium target is \$506.

For the quarter ending 30 June 2020, the average Green Slip premium price per passenger vehicle was \$449 per annum. This is an \$8 (2 percent) reduction for customers on the June 2019 quarter ending premium price of \$457.

Quarterly average premium trends June 2013 to June 2020 (including GST and Levies)



Benefits paid for minor injuries have been limited but ensure the right level of assistance

The concept of ‘minor injury’ is a key feature of the 2017 scheme and ensures that more benefits go to seriously injured people. In 2019, SIRA undertook a review of the minor injury definition and provisions established under the 2017 Act and scheme.

The purpose of the review was to ensure that people were getting the right level of assistance to help them recover from their injuries while ensuring the scheme remains affordable for everyone.

The review included an analysis of not-at-fault minor injury claims. SIRA engaged with injured people and key stakeholder groups to help inform this review. SIRA published its report on the [Review of the Minor Injury Definition in the NSW CTP Scheme](#) in February 2020.

The report found that 42 percent of people with minor injuries finished their treatment and care claims within 13 weeks after a motor accident. This statistic increased to 75 percent by 26 weeks and 98 percent by 52 weeks.

Some key activities undertaken by SIRA that contributed to the report and its recommendations included:

- claims file reviews of 790 minor injury claims

- minor injury exploratory interviews across all five CTP licenced insurers, whereby 40 frontline claims management staff were interviewed to provide insight into insurer culture and processes for minor injury
- summaries of each CTP insurer's experience and challenges in managing provisions relating to minor injury
- an Independent File Review that provided SIRA with insight into insurer claims management of the first 1,000 claims with a particular focus on minor injury.
- Data and actuarial analysis conducted by Ernst and Young (EY) and Taylor Fry
- Insurer insights based on SIRA's regular insurer reviews
- Customer insights based on SIRA's interviews with a sample of injured people
- Dispute insights based on the Dispute Resolution Services team's analysis of minor injury disputes and EY's interviews with medical assessors
- Stakeholder insights based on the public consultation and meeting with key stakeholders
- Research including academic literature.

SIRA has continued to monitor the application of the minor injury definition and will provide guidance to stakeholders where required.

SIRA has increased powers to regulate insurer profit under the 2017 Act

The 2017 Act enables SIRA to conduct stronger regulation of insurers' premium setting practices, as well as their expenses and profits.

To control insurers' premiums, SIRA published Part 1 of the Motor Accident Guidelines which prescribe how premiums are to be determined, the caps that SIRA applies to insurers internal expenses, the factors to be considered in the setting of premiums and premium parameters¹⁰. These parameters are reviewed annually and updated on advice by the Scheme Actuary, Ernst & Young, based on the review of scheme performance with peer-review and endorsement by the actuarial firm, Taylor Fry.

In accordance with the Motor Accident Guidelines, each CTP insurer files their proposed premium rates and provides a comparison of their premium filing parameters against each of the Guidelines parameters. SIRA has the power to reject any premium filed if it considers that the premium does not conform with the Motor Accident Guidelines or if the premium is excessive or inadequate.

Transitional excessive profits or losses (TEPL)

To ensure that insurers' profits are enough to underwrite the risk but are not excessive, during 2019–2020, SIRA finalised the development of a transitional excessive profits or losses (TEPL) mechanism and has published the Motor Accident Guidelines – Transitional excess profits and transitional excess losses (TEPL Guidelines). The TEPL mechanism is designed to improve efficiency and eliminate the super profits seen under the 1999 scheme.

The TEPL Guidelines drive premium affordability. If excess profits are recovered, the future Fund Levy payable by vehicle owners will be reduced. This will mean lower green slip prices for NSW vehicle owners.

Risk Equalisation Mechanism (REM)

SIRA also keeps premiums affordable by promoting competition in the setting of premiums through its Risk Equalisation Mechanism (REM). SIRA introduced the REM on 1 July 2017. The REM

¹⁰ Part 1, Schedule 1E of the Motor Accident Guidelines.

redistributes premiums between insurers to make sure each insurer has the right average premium for each level of risk.

SIRA reviewed the REM during 2018-2019, with support from 2017 scheme actuaries EY and Taylor Fry, to ensure it was meeting its design objectives and achieving its intended outcomes. SIRA consulted with insurers as part of the review.

The review found that the CTP insurance market in NSW had become more competitive since the introduction of the REM, and that REM objectives were largely being met with the REM achieving its intended outcomes, including maintaining parity.

e) To promote competition and innovation in the setting of premiums for third-party policies to ensure the sustainability and affordability of the scheme and fair market practices

SIRA encourages innovation by CTP insurers through an 'Innovation Support' as part of the TEPL Guidelines. If SIRA activates the TEPL mechanism to minimise insurers' excess profits, an insurer can apply to retain up to an additional three percent profit if they have successfully implemented an approved innovation.

An insurer must apply to SIRA to confirm that the innovation has merit and receive approval for the maximum profit value it can retain if the innovation is successful. Each innovation must either be:

- to the benefit of the CTP customer, whether or not they hold a green slip
- to the benefit of motorists in general, and
- not solely to the benefit of the insurer.

Underlying principles for insurers to go by when seeking an innovation follow:

- a) Value and impact through investment. Viable business case to create economic, social and/or environmental impact.
- b) Diversity of thinking and experience: diversity of thinking and experience involved in the innovation process
- c) Design build and learn through prototyping test theories and concepts and be prepared to (and willing) to fail
- d) Desirability and feasibility, then viability. Do not reject concepts based on viability before accessing desirability and feasibility
- e) Consider the whole value chain. Consider innovation opportunities across the whole value chain.

SIRA has received innovation submissions from insurers since the commencement of the 2017 scheme. Due to the commercial in confidence nature of these submissions, SIRA cannot disclose specific details of individual innovation submissions. This is to promote competition and innovation between the licensed insurers that will lead to improved outcomes for customers in NSW.

SIRA monitors the progress of the innovations through regular reporting requirements as part of implementing the innovation, and in the assessment of its benefits.

f) To deter fraud in the 2017 scheme

The 2017 scheme has provided SIRA with strengthened powers to investigate and prosecute fraud. The shift to defined benefits for minor injuries such as soft tissue and minor psychological injuries has successfully reduced the ability for people to abuse the system.

SIRA works collaboratively with the NSW Police Force's Financial Crimes Squad (Taskforce Mercury) and other peak investigative bodies to deter, detect and prosecute fraudulent claims and suspected unlawful activity involving the 1999 and 2017 schemes.

As at 31 August 2020, 37 individuals were charged by the NSW Police with a total of 217 fraud-related offences, at an estimated value of \$17 million (for both schemes).

SIRA continues its relationship with the NSW Police as part of its ongoing fraud detection and prevention strategies. SIRA also collaborates with other government departments and regulators to develop mitigating strategies to prevent fraud and leakage within the scheme. In late 2020, SIRA will look to procure a digital fraud and provider management tool, with a tender for a provider to be released shortly.

g) To encourage the early resolution of motor accident claims and the quick, cost effective and just resolution of disputes

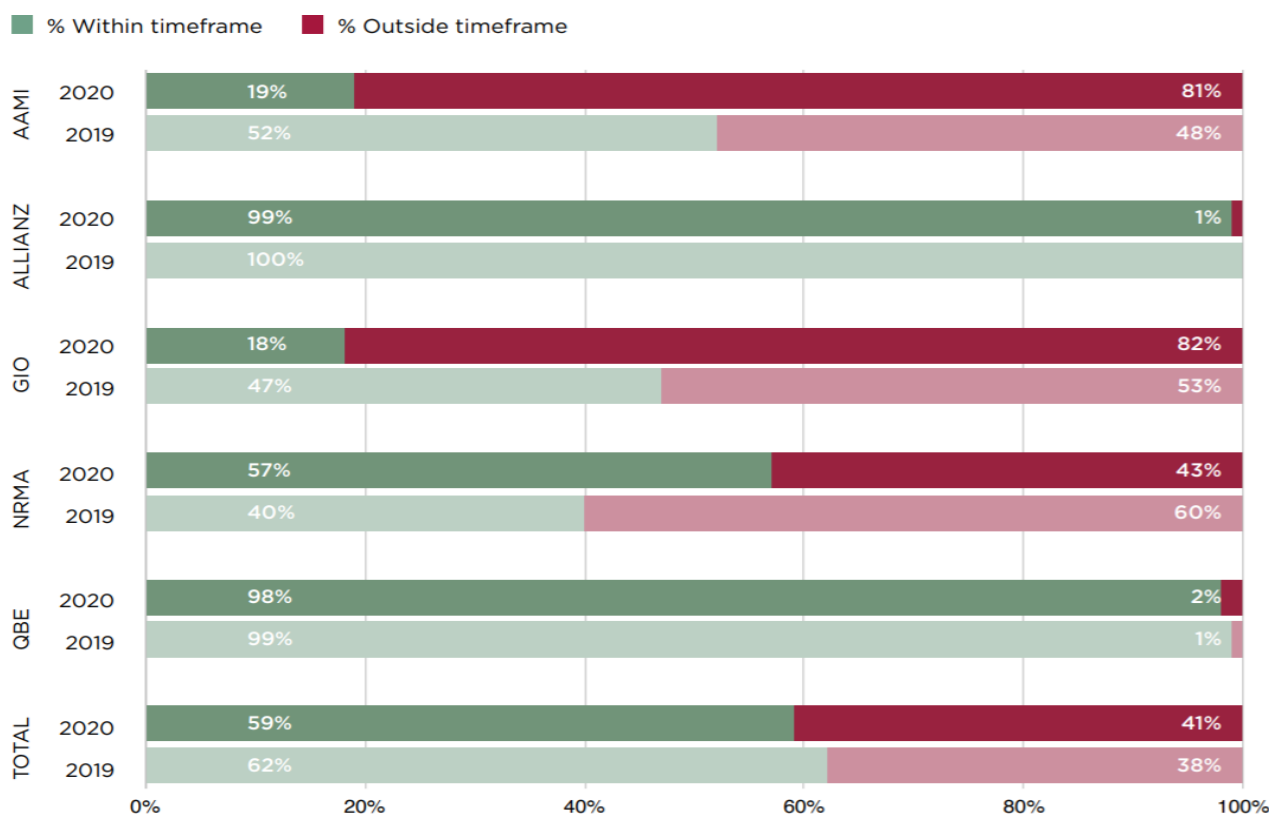
Insurer internal review

Should a dispute arise between a claimant and an insurer, the first step is for an injured person to request an internal review of a decision by an insurer⁸. The review is independent of the original decision maker, allowing the injured person and insurer to resolve the dispute before it reaches DRS. An insurer internal review is required before most disputes can be lodged with DRS. The objective is to provide a quicker outcome for injured people and to reduce the number of disputes that DRS must consider.

SIRA holds insurers' accountable to statutory time limits for an insurer internal review to be completed. SIRA collects data from insurers through daily submissions and has observed that some insurers have issues with timeliness: as demonstrated in the June quarter Claims Experience and Customer Feedback report which has been published on SIRA's website. Two insurers have been referred to SIRA's Enforcement and Prosecutions for further regulatory action and have also been requested to undertake a remediation plan under SIRA's supervision.

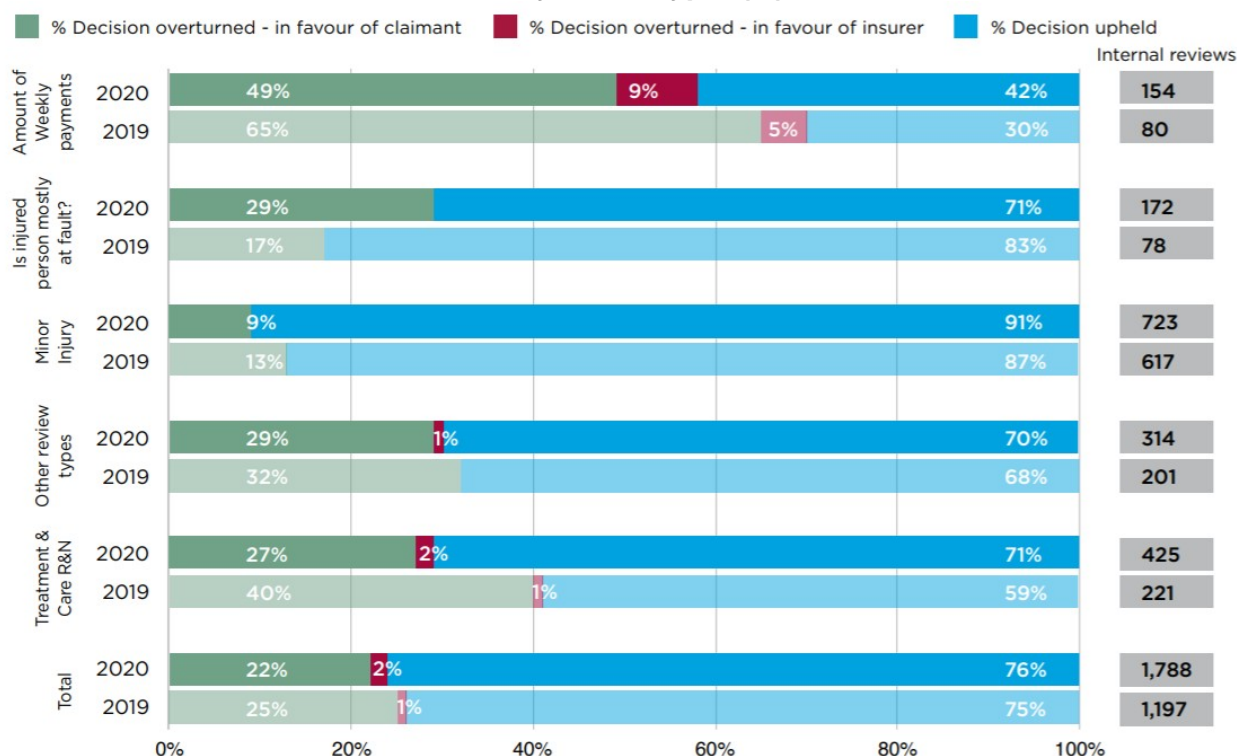
Of the total 1,788 resolved internal reviews from 1 January 2020 to 30 June 2020, 76 percent had the initial claim decision upheld. In 2019, 75 percent resolved internal reviews had the decision upheld.

Internal reviews completed by timeframe (%)



SIRA has taken enforcement action with insurers who have not complied with time frames for decisions on internal reviews.

Outcomes of resolved internal review by review type* (%)



Note: Figures are rounded to the nearest whole percentage

*For the periods 1 July 2018- 30 June 2019 and 1 July 2019 to 30 June 2020

Dispute Resolution Service (DRS)

Until March 2021, when the new Personal Injury Commission (PIC) will commence, SIRA operates an independent DRS which provides an alternative to court for resolving disputes for the NSW CTP schemes. SIRA is working constructively with the President of the PIC and other stakeholders to support the establishment of the Personal Injury Commission in March 2021.

SIRA encourages the early resolution of motor accident claims through the quick, cost effective and just resolution of disputes for people injured in motor accidents.

DRS delivers the separate but complementary services of the Medical Assessment Service which resolves certain medical disputes, and the Claims Assessment and Resolution Service which assesses claims and resolves disputes that arise in connection with claims made under the 1999 scheme.

If an injured person disagrees with the outcome of an insurer's review decision, SIRA's DRS can assist to resolve the dispute by either:

- facilitating the understanding of issues in dispute between the insurer and injured persons to mutually resolve these disputes, or
- arranging an independent and binding decision by an expert assessor.

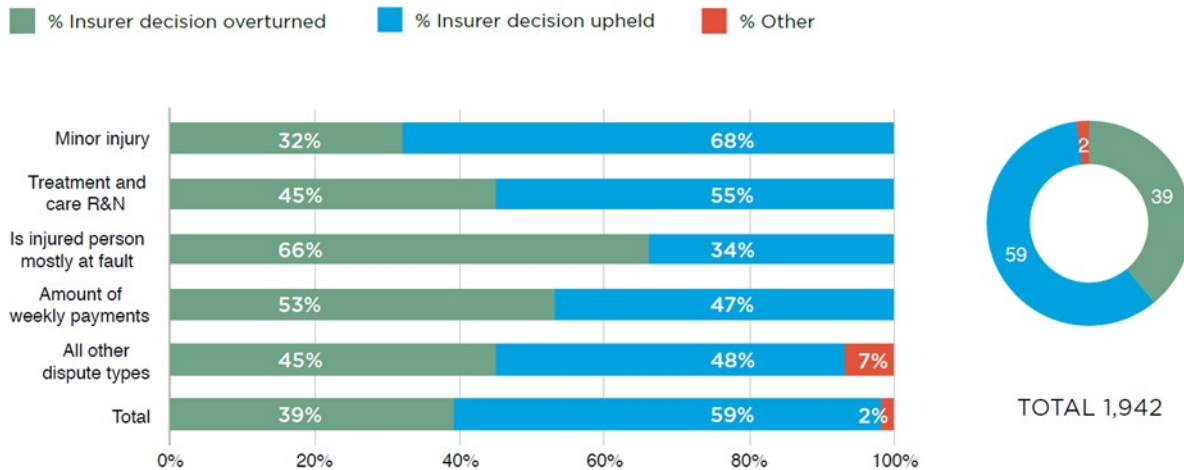
There is no cost to claimants or insurers for using the DRS as it is funded by the SIRA levy collected on premiums.

As at 30 June 2020, 4,297 disputes have been lodged at SIRA's DRS. SIRA continues to monitor the outcome of these matters, with 2,832 disputes completed, 487 withdrawn, and 179 declined. In

addition, 1152 matters were resolved with the original insurer decision being upheld, and 764 resulted in the decision being overturned.

As at 24 September 2020, there have been 12 litigated claims under the 2017 scheme.

Outcomes of resolved DRS reviews* (%)



*Data from 1 Dec 2017 to 30 June 2020.

** The number of dispute resolution cases received by DRS depends on how many customers individual insurers have. Insurers with more customers are more likely to receive a greater number of dispute resolution applications. By measuring dispute resolution cases per 100,000 Green Slips sold, the regulator can compare insurers' performance regardless of how many customers they have.

*** Open in error, invalid or dismissed disputes.

Digital disputes portal for motor accidents disputes

SIRA has introduced a new digital disputes portal for motor accidents disputes, making dispute resolution as easy and transparent as possible for all parties involved in a dispute. The enhanced cloud-based dispute resolution experience will give all parties to a dispute faster lodgements, access to real-time status updates and in-system communication, considerably reducing dispute resolution time.

The Electronic Document Management System was first introduced for Dispute Resolution Service staff and 2017 scheme claimants in December 2017. It has been enhanced and expanded since then, with portals for insurers and legal representatives launched in May 2020. An additional portal for external assessors to be launched in late 2020 will complete the solution and ensure the efficiencies and benefits associated with the solution are realised.

h) To ensure the collection and use of data for the effective management of the 2017 scheme

Open data tool/portal

In 2019, SIRA launched a CTP open data portal, which provides a self-service visual analytics tool to make it easy to view and compare 2017 scheme data and insurers' performance over time. This enhanced level of transparency is holding insurers accountable to their obligations and enables customers to make informed decisions when choosing their preferred CTP insurer.

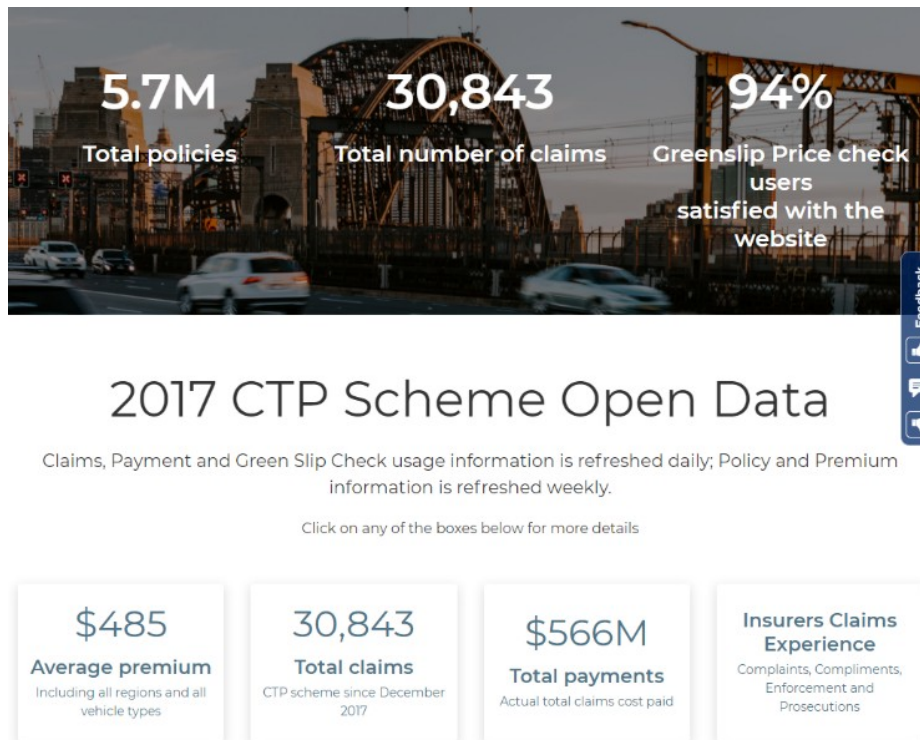
The CTP open data portal gives customers access to close to real-time data from CTP insurers, with claims data refreshed daily, and premium data refreshed weekly on the portal. It is an example of the NSW Government's Open Data Policy to improve community access to information. Enhancements to existing features continue to be made to all data access-portals based on stakeholder and customer feedback.

Access to insurer data helps customers make meaningful comparisons between insurers when purchasing CTP insurance. People injured in motor accidents may also benefit from knowing what to expect from the insurer managing their claim.

SIRA currently compares key indicators of customer experience across CTP insurers in NSW. New functionality has been added to the portal so customers can filter data to their preference with interactive tables and graphs. As the scheme matures, SIRA intends to add more data to this portal and in the claims and customer experience quarterly report to include customer satisfaction survey scores, and additional claims and injury management outcomes such as return to work/activity data.

SIRA values being able to provide an open data source to ensure that customers can access data and make meaningful comparisons at a time that suits them. The picture below of the Open Data front page highlights some of the CTP insurer performance data available on the portal.

Front page of the SIRA CTP Open Data Portal as at 30 September 2020



Road safety data linkage program

In partnership with Transport for NSW's Centre for Road Safety, SIRA continues to invest in data sharing, linkage and exchange between NSW Health and Ambulance, the NSW Police Force, Transport for NSW and icare Lifetime Care. This provides more information about the longer-term consequences, costs and impact of road trauma to inform and guide road safety priorities.

In 2018-19, using the NSW Health Centre for Health Record Linkage governance and linkage procedures, the data linkage program added motor vehicle injury and workers compensation claims data to the linkage. Analysis of the data sharing will provide greater insights into understanding claims reporting for pricing and peoples' needs. It also enables SIRA to provide a more integrated approach to care, and a seamless experience for injured people recovering in the health system.

5. Insurer supervision

SIRA supervises insurer compliance with their obligations and performance under the 2017 Act and the Motor Accident Guidelines by using data analytics and adopting a risk-based regulatory approach. SIRA's supervision role is focused on improving customer experience and outcomes, building capacity and efficiency in the scheme, and holding insurers to account. This is achieved through guidance, directions, data analytics, risk identification and mitigation, reporting, and implementing system improvements that benefit injured persons' and customers experience.

When SIRA becomes aware of instances of non-compliance, such as delays in payment to an injured person or providers, insurer staff conduct, or delays in response to communication, some of the regulatory tools available to SIRA include education, directions and the issuing of warnings. If the level of insurer non-compliance is significant, such as a delay in determining an internal review, SIRA undertakes enforcement action such as the issuing of a breach notice, censure or penalty.

Since the commencement of the 2017 scheme, SIRA has:

- Conducted 16 reviews of insurer self-assessments reports
- Investigated 2043 complaints received about insurer conduct
- Reviewed insurer initial letters to injured people. This was to ensure that insurers are providing injured people with clear expectations on the claims and injury management philosophy of the insurer, options to seek independent legal advice, and to inform injured people of complaints and disputes processes.
- Reviewed 20 insurer complaint reports
- Completed four targeted claims audits
- Conducted 1095 files reviews
- Published 2017 scheme claims data on the open data portal
- Engaged directly with insurer's claim management personnel to ensure compliance with scheme timelines and performance obligations
- Improved injury coding standards to maximise data quality when specifying injury types within the scheme
- Monitored data quality of insurers
- Conducted annual insurer business plans reviews.

SIRA also undertakes quarterly performance reviews with insurers where each insurer reports on the following:

- Insurer's customer satisfaction reports
- Insurer's cultural reports
- Strategic initiatives to improve customer service and claims outcomes,
- Emerging trends in personal injury and insurance schemes
- Performance issues (self-reported or identified by SIRA) relating to all aspects of the CTP portfolio: policy, claims and injury management.

Insurers are required to assess their own compliance with the 2017 Act and report on the outcomes to SIRA. Since the scheme commenced, SIRA has issued 24 improvement plans for insurers to address shortfalls in fulfilling their statutory obligations.

Through the conduct of regular supervision activities, SIRA has identified 255 issues covering claims operations challenges, including complaints trends, insurer behaviour, insurer internal reviews, insurer business operations, data quality issues and possible scams. Following a risk assessment, 20 of the 255 issues have resulted in a regulatory notice being issued to insurers, and eight have been referred for further action.

SIRA has also developed and published education material to help insurers to understand the correct application of the 2017 Act, Regulation and the Motor Accident Guidelines. A list of available guidance notes on the SIRA website is available in [Appendix 3](#).

Ensuring compliance with insurer self-notification requirements

In accordance with the 2017 Act, SIRA has released a policy which outlines that matters of significant non-compliance need to be self-notified by an insurer to SIRA. When there is ambiguity on whether a matter is significant enough to require self-reporting, the onus is on the insurer to contact SIRA for advice.

When SIRA is notified of significant non-compliance by an insurer, SIRA monitors the non-compliance and requests for further information, including an immediate remediation plan. SIRA also undertakes regulatory action.

Publication of customer experience measures

As part of its regulatory oversight of insurer performance in the 2017 scheme, SIRA publishes data which compares key indicators of customer experience across the CTP insurers in NSW. The evidence-based indicators were developed following consultation between SIRA, insurers and other scheme stakeholders, and include:

- the number of statutory benefits claims accepted by insurers
- how quickly insurers pay statutory benefits
- the time taken by an insurer to determine an internal review
- outcome of claim decisions reviewed by insurers through the insurer's internal review unit
- the number and outcome of claims referred to DRS
- the number and type of compliments and complaints received by SIRA about insurers
- the number and type of issues escalated to SIRA's Enforcement and Prosecutions team.

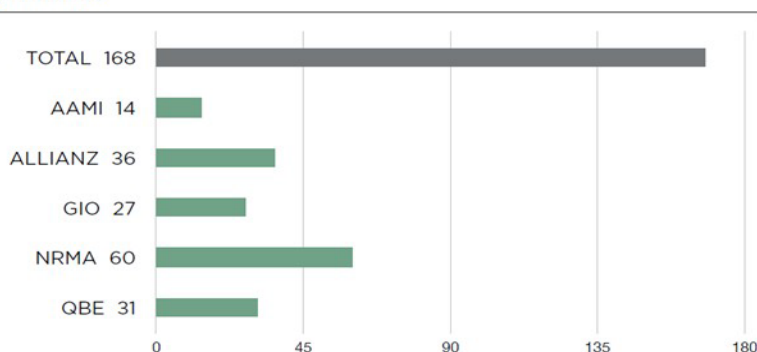
These performance indicators objectively measure an insurer's performance over the course of a claim journey and additional measures (such as return to work /return to activity, customer survey outcomes) will be included by March 2021.

The CTP Claims Experience and Customer Feedback Comparison report, which is released online quarterly, was first published in June 2019 and helps customers make an informed choice of CTP insurer based on their performance under the scheme. Data items can be filtered based on a customer's preference with interactive tables and graphs. The June 2020 report indicates that:

- As a result of SIRA's strong regulatory oversight and supervision of insurers, the rate of claims paid within four weeks improved from approximately 40 percent in March 2019, to almost 52 percent of eligible claimants in June 2020.
- Over 98 percent of claims were accepted by insurers in both 2019 and 2020
- 1.6 percent of claims were declined by insurers in 2019 and 2020
- 75 percent of injured people received 'pre-claim support' in 2020, with a further 20 percent accessing treatment and care services within the first month after lodging a claim. This result is an improvement on 2019, where 72 percent of customers accessed treatment and care benefits prior to formally lodging a claim
- SIRA receives 12 complaints for every 100,000 green slips sold
- SIRA received 168 compliments in 2020.

Compliments & complaints (1 July 2019 - 30 June 2020)

Compliments

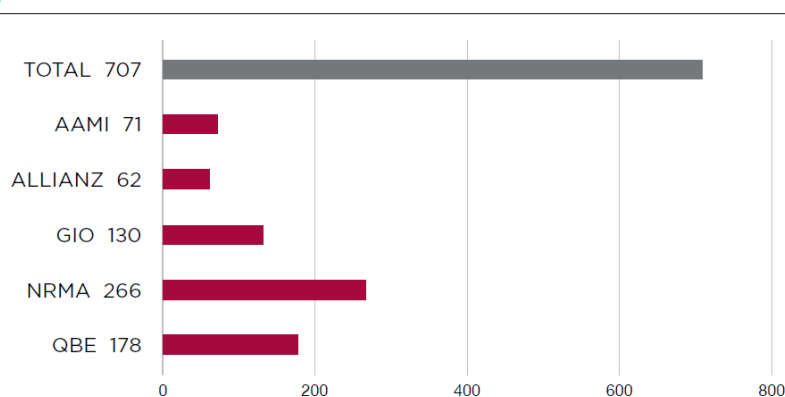


Compliments

per 100,000 Green Slips*

TOTAL 3
AAMI 3
ALLIANZ 4
GIO 3
NRMA 3
QBE 2

Complaints

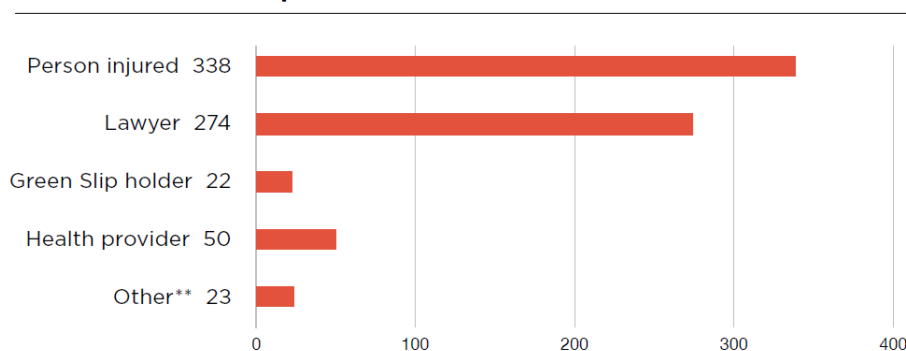


Complaints

per 100,000 Green Slips*

TOTAL 12
AAMI 14
ALLIANZ 6
GIO 13
NRMA 14
QBE 12

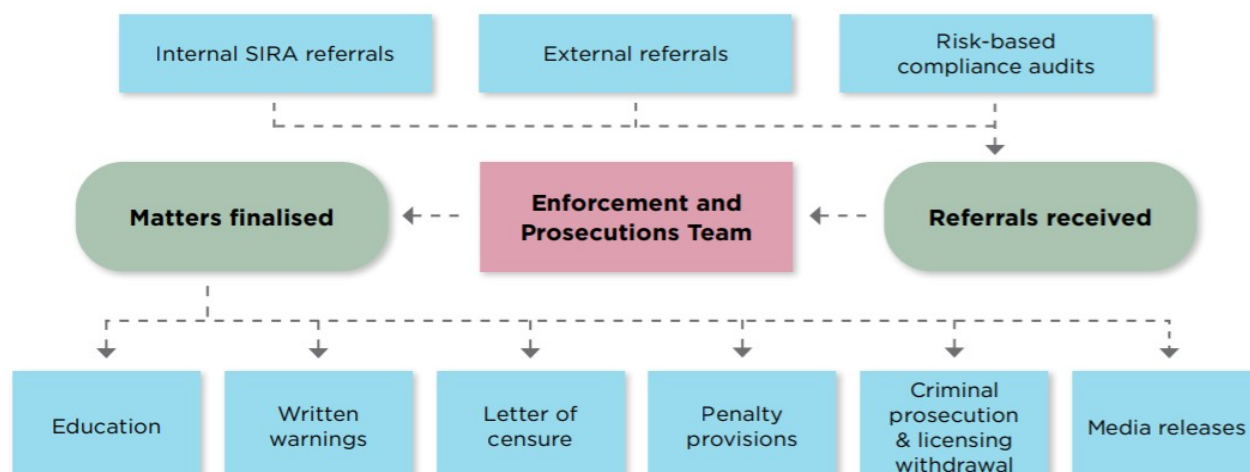
Who made the complaint?



6. Enforcement and prosecutions

SIRA undertakes a risk-based approach to its investigations and takes appropriate regulatory enforcement action on a case-by case basis and reviews these cases to identify any systemic issues in relation to insurer or providers behaviours.

SIRA continues to undertake investigations and enforcement activities to respond to breaches of the motor accident legislation and guidelines. SIRA works closely with law enforcement agencies and other regulatory bodies to ensure appropriate strategies are in place to minimise risks to the 2017 scheme.



Enforcement Action 1 December 2017 to 31 August 2020

From 1 December 2017 to 31 August 2020, SIRA has taken enforcement action on 64 matters for alleged insurer breaches under the 1999 and 2017 schemes. SIRA will be continuously updating the Customer Experience report through the Open Data tool to reflect enforcement action taken by SIRA.

Motor Accidents Compensation Act 1999

Insurer	Enforcement Action 1 December 2017 to 31 August 2020	Number issued
NRMA	Letter of Censure	Nil
	Civil penalty	Nil
	Regulatory Notice/Notification of Breach	23
Allianz	Letter of Censure	1
	Civil penalty	Nil
	Regulatory Notice/Notification of Breach	7
QBE	Letter of Censure	Nil
	Civil penalty	Nil
	Regulatory Notice/Notification of Breach	1
GIO	Letter of Censure	Nil
	Civil penalty	Nil
	Regulatory Notice/Notification of Breach	4
AAMI	Letter of Censure	Nil
	Civil penalty	Nil
	Regulatory Notice/ Notification of Breach	7
Zurich	Letter of Censure	Nil
	Civil penalty	Nil
	Regulatory Notice/ Notification of Breach	Nil

Motor Accident Injuries Act 2017

Insurer	Enforcement Action 1 December 2017 to 31 August 2020	Number issued
NRMA	Letter of Censure	2
	Civil penalty	Nil
	Regulatory Notice/Notification of Breach	12
Allianz	Letter of Censure	Nil
	Civil penalty	Nil
	Regulatory Notice/Notification of Breach	Nil
QBE	Letter of Censure	2
	Civil penalty	Nil
	Regulatory Notice/Notification of Breach	3
GIO	Letter of Censure	1
	Civil penalty	Nil
	Regulatory Notice/Notification of Breach	
AAMI	Letter of Censure	1
	Civil penalty	Nil
	Regulatory Notice/ Notification of Breach	Nil

In the 2019-20 financial year, 28 matters were referred for investigation related to alleged insurer breaches of their obligations and licence conditions under the legislation and guidelines. In the same period, a total of 40 matters were finalised, of which 17 matters resulted in a form of regulatory enforcement action including letters of censure or a notice of non-compliance issued to the insurer.

The main areas of breaches under the legislation and the guidelines were:

- Failure to determine or late determination of liability in accordance with timeframes prescribed by the 2017 Act and the Motor Accident Guidelines
- Failure to respond or late response to treatment and care requests by the claimant or their representatives
- Failure to respond or delays in acknowledging, completing and notifying outcomes of internal reviews in accordance with timeframes prescribed by the 2017 Act and the Motor Accident Guidelines
- Inappropriate management of CTP claims.

Other matters finalised during this period were determined to be minor insurer practice issues, and SIRA has continued to monitor, educate and where appropriate, direct insurers to resolve these issues.

7. Green Slip refunds

A key benefit of the 2017 scheme reforms was to deliver cheaper Green Slips. Effective from 1 December 2017, Green Slip prices were reduced for most classes of vehicles¹¹ when the 2017 scheme commenced. If people bought or renewed a Green Slip with a start date before 1 December, their premium would be based on the 1999 scheme and they would be entitled to a refund. A Green Slip refund applied to the owner of a vehicle at midnight 30 November 2017 and was calculated proportionally. This meant that the closer the policy start was to 1 December 2017, the larger the refund.

A Green Slip refunds program ran from early 2018 and concluded on 30 September 2019. At the end of the program, \$215.1 million was refunded to 3.45 million policy holders. Approximately 745,000 policy holders did not claim their CTP refund, representing around \$29 million in unclaimed refunds. An additional \$9 million of administration fee savings was realised, resulting in a total unclaimed refund amount of approximately \$38 million (which is the closing balance of the CTP refund program as at 30 June 2020).

Any unclaimed refund amounts are being returned to NSW motorists through a further reduction in the Motor Accidents Operational Fund (MAOF) levy otherwise payable, which forms a part of all CTP insurance premiums. This process commenced on 15 January 2020 and will continue over a 12-month period.

8. Green Slip Check and 'Buy Now'

SIRA's Green Slip Check encourages customers to get the best premium price. Since its establishment, about 2.15 million people have accessed SIRA's online *Green Slip Check* to help them compare prices and renew their CTP insurance, saving them time and money.

In November 2018, SIRA introduced a 'Buy Now' option on *Green Slip Check*, allowing customers to conveniently click through to a CTP insurer's website to buy a green slip policy. This new

¹¹ Motorcycle owners did not receive a refund. Instead, injured motorcycle riders, particularly those at fault in the accident, receive more benefits under the new scheme.

functionality has also increased SIRA's visibility of insurer market share data, and SIRA's capacity to monitor Green Slip premium prices filed with SIRA by insurers. SIRA also has access to data which indicates that a significant number of customers are shopping for the best deal with their insurance premium.

In 2021, SIRA will link customer and claims experience reports published on the SIRA website to the *Green Slip Check* website so customers can take customer experience measures into account when buying their Green Slip.

9. Legal supports to access the scheme

The Motor Accidents Compensation Regulation 2020

During 2019-2020, SIRA consulted with stakeholders to update the Motor Accidents Compensation Regulation 2015 made under the 1999 Act.

The new Regulation came into effect on 1 September 2020, with two key amendments being:

- Legal and medico-legal fees will now be indexed annually in line with the Consumer Price Index (CPI), similar to the indexation under the Motor Accident Injuries Regulation 2017.
- Insurers will be exempt from the cost of contracting out of legal fees where the amount paid to settle the claims through an award of damages is \$50,000 or less. This enables insurers to more effectively manage smaller claims, helping to stamp out claims farming.

These changes do not apply to legal and medico-legal costs under the 2017 Act and the Motor Accident Injuries Regulation 2017.

Independent review of legal support for injured people

To ensure stakeholders receive the support they need and in line with best government practice, SIRA has recently commissioned an independent review into legal support for injured people. Its aim is to assess if the current legislative, regulatory and service provision by providers of legal support is promoting the objects of the 2017 Act.

SIRA's Legal Advisory Service currently provides legal advice relating to statutory benefits claims, where legal fees are restricted by the 2017 Act and supporting regulations¹².

Personal Injury Commission (PIC)

In response to 2018 recommendations of the Legislative Council Standing Committee on Law and Justice, the NSW Government has passed the *Personal Injury Commission Act 2020*. It establishes a new tribunal that delivers the same dispute resolution services for injured people claiming against the CTP and workers compensation insurance schemes.

From March 2021, the PIC will form a single, independent tribunal in New South Wales with specialist motor accidents and workers compensation divisions. Until that time, SIRA will continue to deliver its existing services. The objective of the PIC is to be accessible, professional and responsive to the needs of all its users to facilitate the just, quick and cost-effective resolution of the real issues in the proceedings¹³.

¹² There is no charge to the person injured in a motor vehicle accident. This is a phone-based service, with referrals being made by SIRA's CTP Assist service support and advice line.

¹³ *Personal Injury Commission Act 2020*, s 3.

The functions of SIRA which deal with CTP disputes under the 2017 and 1999 schemes will be transferred to the PIC. A separate entity that will also transfer to the PIC is the Workers Compensation Commission, who currently manages workers compensation disputes.

The *Personal Injury Commission Act 2020* also introduces a new Independent Review Office (IRO) that may deal with claims complaints about insurers in both the CTP and workers compensation schemes¹⁴.

10. Stakeholder and interjurisdictional regulator consultation

SIRA holds regular strategic and operational consultation forums with customers, peak legal bodies, CTP insurers, motoring bodies such as the Motorcycle Council of NSW, the point to point industry and other Government departments and jurisdictions. These groups receive information and input into policy and operational developments in the 2017 scheme. Stakeholder workshops and forums are held regularly for specific projects. SIRA is responsive to their concerns and collaborates on addressing issues.

Strategic communication with stakeholders is undertaken to build public trust in SIRA and the 2017 scheme. SIRA engages with CTP stakeholders and customers proactively by publishing the monthly Motor Accidents Bulletin sent by email to stakeholders, and through updates to the SIRA website as well as various meetings and forums.

SIRA's website contains a survey program to gather feedback from customers and manage public consultations.

Through the Heads of Motor Accident Injury Schemes Committee (MAISC), SIRA also meets with other CTP regulators twice a year to exchange information and solutions to issues. The CTP regulators also meet jointly with the Heads of Workers Compensation Scheme to leverage any initiatives that improve return to work and health outcomes for injured workers and road users.

The MAISC Committee is currently reviewing the impact of autonomous vehicles on CTP insurance schemes and SIRA is also supporting the Health Benefits of Good Work initiative which considers solutions for return to work, when long term work absence, work disability and unemployment generally have a negative impact on health and wellbeing.

SIRA and the Australian Prudential Regulation Authority (APRA) have a joint MOU and meet regularly to share information of benefit to both regulators. SIRA also consults with the Australian Securities and Investments Commission (ASIC) and other professional bodies e.g. the Health Care Complaints Commission (HCC).

11. Education and training

Support for allied health professionals and medical professionals

SIRA offers an online training module to allied health professionals who provide services in the NSW 2017 scheme. The module is available for allied health professionals who are new to the scheme or who need a refresher on working with people injured in motor vehicle accidents, and training is provided to support the claims process.

SIRA also provides specific training for medical practitioners to conduct WPI assessments. SIRA has ensured that the WPI training for medical practitioners is recognised for Continual Professional

¹⁴ *Personal Injury Commission Act 2020*, Schedule 5.

Development (CPD) purposes by the Royal Australasian College of Surgeons and Royal Australasian College of Physicians.

Animations and publications

SIRA continues to raise awareness in the community about the CTP insurance scheme through a series of easy to understand animations published on the SIRA website, YouTube and LinkedIn channels. These animations explain key aspects of the scheme in plain English, sequenced and engaging format. These animations have been translated into several languages and SIRA plans to launch these in October 2020.

A complete list of SIRA's CTP animations videos is available in [Appendix 3](#). The SIRA website also provides a further [120 publications](#), to provide information about the 2017 scheme to assist injured people and the broader community.

12. Authorised Health Practitioners

The 2017 Act places restrictions on health practitioners giving of evidence about medical matters¹⁵. Those practitioners who are authorised to give evidence in court and dispute resolution proceedings are known as authorised health practitioners.

SIRA may appoint a health practitioner to its published list of Authorised Health Practitioners, if it is satisfied that the health practitioner meets the eligibility requirements outlined in the Motor Accident Guidelines¹⁶.

In 2019, SIRA consulted widely on the approval and regulatory framework for authorised health practitioners in the 2017 scheme. Following consultation, changes were made to the Motor Accident Guidelines with the introduction of Part 8: Authorised Health Practitioners.

The new terms of appointment reinforce SIRA's commitment to improving the quality of medicolegal assessments and transparency in the appointment process. They also facilitate the development and implementation of consistent compliance and performance frameworks.

13. Point to point insurance reform

The point to point sector includes taxis, hire cars and ride sharing vehicles as well as other small operators using vehicles with up to 12 seats in industries such as tourism. SIRA is committed to achieving new premium-setting arrangements for the point to point industry that promote innovation and competition, encourage safer driving and provide greater flexibility to respond to future changes in the sector.

Taxi premiums are higher than those of other passenger vehicles because they are more likely to have an accident in which they are at fault¹⁷. For comparison, as at April 2020, the average premium for a metropolitan class 1 passenger vehicle is \$514 compared to \$3,730¹⁸ for a metropolitan taxi. This is largely because metropolitan taxis have 12 times the claims frequency of metropolitan passenger vehicles. Early data for rideshare vehicles shows that they are likely to be around three times the claims frequency of passenger vehicles, but it is too early to know what the average claims costs are likely to be and whether the claims frequency will evolve as more data is gathered.

¹⁵ *Motor Accident Injuries Act 2017*, s 7.52

¹⁶ Part 8 of the Motor Accident Guidelines: Authorised Health Practitioners

¹⁷ Centre for Road Safety, Road Travel Casualty Crashes in NSW, Statistical statement for the year ended 31 December 2018, pgs. 47-49

¹⁸ For taxi instalment payments each payment is averaged i.e. it is an average per payment calculation rather than per policy.

The data collection mechanism that the CTP insurers use to calculate the payable distance-based premiums is different between ridesharing vehicles and taxis because the industry was technologically very different at the time it was implemented. This has resulted in insurers having to implement and manage dual systems, which is costly and, in some cases, has resulted in increased late payment of premiums as well as barriers to some vehicles owners being able to access cheaper premiums. SIRA is working with the industry and the insurers to try to resolve these problems and, before the COVID-19 pandemic, had begun consulting on what final arrangements could look like.

On 1 April 2018, as recommended by the Point to Point Transport Taskforce, SIRA introduced distance-based premiums for the point to point industry which delivered significantly cheaper premiums for taxis and equivalent premiums for larger booking service providers such as rideshare. In addition, the commencement of the 2017 Act on 1 December 2017 reduced premiums for all motorists while increasing support to people who are injured in a motor vehicle accident.

As at April 2020, the average metropolitan taxi premium has reduced from \$7,881 pre-reform to \$3,730¹⁹, a saving of \$4,151. In addition, the country taxi premium has reduced from \$4,176 to \$2,502¹⁹, a saving of \$1,674.

14. Lifetime Care and Support scheme and CTP Care

Lifetime Care and Support Scheme

The Lifetime Care and Support (LTCS) Scheme is established by the *Motor Accidents (Lifetime Care and Support) Act 2006* to provide treatment, rehabilitation and care to people severely injured in motor accidents in NSW, regardless of fault. To be eligible for the LTCS Scheme, a person must have a severe injury, which includes brain injury, spinal cord injury, specific types of amputations, blindness or burns.

The LTCS Scheme is operated by the Lifetime Care and Support Authority (LTCSA), which is managed by icare. The LTCS Scheme is funded through a levy on Green Slip premiums collected by CTP insurers and paid into a statutory fund administered by the LTCSA.

People meeting the LTCS scheme eligibility criteria and transferring from the 2017 scheme

SIRA continuously works with CTP insurers and LTCSA to ensure a timely and smooth transition for the injured person from an insurer to the LTCS scheme. SIRA reviews the Motor Accident Guidelines every six months, which set out the roles and responsibilities for when a CTP claimant becomes a LTCS Scheme participant and ensures the ongoing and effective communication between insurers and LTCSA. The Guidelines prescribe that insurers must provide certain information to icare, including contacting icare prior to making adverse liability decisions regarding participants¹⁹.

CTP Care

The 2017 Act established the Motor Accident Injuries Treatment and Care Benefits fund levy (MAITCB Fund) belonging to and vested in the Lifetime Care and Support Authority (LTCSA) managed by Insurance and Care NSW (icare).

The MAITCB Fund, which is referred to as the CTP Care program, provides for people with claims in the 2017 scheme who require treatment and care for more than five years after the accident, but who do not meet severe injury criteria of the LTCS scheme.

The MAITCB fund pays for the management and treatment for these people and the LTCSA acts as insurer to manage and pay for the injured person's statutory benefits for treatment and care. The 2017 Act describes the LTCSA's role as the "relevant insurer" in these circumstances.

¹⁹ Part 4, the Motor Accident Guidelines

SIRA implements strong oversight and governance of CTP Care. In consultation with LTCSA, CTP insurers and peak legal bodies, SIRA has finalised the CTP Care Guidelines which will be published in the Motor Accident Guidelines in October 2020. The Guidelines set out the requirements for the transition of the management of treatment and care benefits payments for requirements, complaints handling, treatment and care, customer experience and data provision. SIRA will carefully monitor and report on LTCSA claims management against these requirements.

LTCSA will assume responsibility for the payment of treatment and care to eligible participants from December 2022, with the possibility for earlier transfer in some circumstances. To date, no early participants have entered the CTP Care Program, with new participants anticipated from late 2020.

More information about CTP Care is available on the SIRA website²⁰. SIRA has also developed the CTP Care early transition fact sheet to assist injured people who may be transitioning early to the CTP Care program²¹.

CTP claimants from a CTP insurer to LTCSA, as well as LTCSA's obligations as the relevant insurer, including notification.

Levy rates to fund LTCS scheme and CTP Care

The Board of icare has responsibility for determining the annual aggregate levy requirements for the LTCS and MAITCB funds. The SIRA Board has responsibility for setting per vehicle levy rates that are expected to meet the icare targets.

The SIRA Board is not responsible for the setting of icare levy targets (as these relate to separate statutory funds managed by icare), but SIRA is able to request information from icare in support of any changes to their requirements.

SIRA has requested, and icare has provided, material supporting the changes to their levy requirements for financial year 20/21 i.e. from 1 July 2020 (including relevant actuarial reports). Taylor Fry were engaged by SIRA to review this material and concluded that the increases in target collection was appropriately justified.

The increased LTCS levy (average increase \$3.04 per vehicle) due to increased vehicle numbers, a year of inflation (including superimposed inflation²²) and increased hourly rates of pay for attendant care services. Longer life expectancies also increased the levy requirement, but this was partially offset due to changes in the participant profile and lower utilisation of some benefits.

The MAITCB levy (average increase of \$0.95 per vehicle) was predominantly due to increased vehicle numbers, a year of inflation (including superimposed inflation) and a reduced allowance for assumed future investment income.

15. Healthcare review

SIRA is currently undertaking a comprehensive health care review evaluating the full range of healthcare arrangements in both the CTP and workers compensation schemes, including fees, clinical quality, data and reporting, monitoring and compliance and regulation.

In late 2019, SIRA sought submissions as part of the Review. SIRA received 53 submissions, 43 of which have been published on the SIRA website²³. A final report will be published in late 2020. In the meantime, SIRA is working with insurers to improve administration of treatment payments and approvals and with the medical community on value-based care and fees models.

²⁰ SIRA, [CTP Care](#)

²¹ SIRA, [CTP Care early transition fact sheet](#)

²² The increase in the average claims size over time above wage inflation (Ernst and Young definition).

²³ SIRA, [Regulatory requirements for health care](#)

16. Response to COVID-19

Several changes and policy adaptations have been made in response to the COVID-19 pandemic to reduce regulatory barriers and ensure the scheme remains operational to support injured road users through their recovery and return to work. The changes and policy adaptations made are set out on the next page.

Review of CTP premium parameters to assess the impact of COVID-19

Given the significant disruption caused by the COVID-19 pandemic, SIRA commissioned a review under the 2017 Act to assess whether there was evidence in support of a revision to the Motor Accident Guidelines Schedule 1E premium parameters by the SIRA Board and, if so, whether SIRA had grounds to direct insurers to submit premium filings to adjust premiums.

The review was conducted by the Scheme Actuary, Ernst & Young, with peer review by Actuary, Taylor Fry. The outcome of the review was that there was insufficient evidence to suggest the impact of COVID-19 supported a revision to the Motor Accident Guidelines Schedule 1E parameters at that time.

Support for Taxi operators

On 22 May 2020, the NSW Government announced a \$12.6 million support package for the taxi industry to provide operators with financial relief during the COVID-19 shutdown and help taxis remain on the road. The support package provides owners of wheelchair accessible taxis and taxis operating at 1 May 2020 with a \$2,900 subsidy per vehicle for six-months costs towards CTP insurance, registration fees and other on-road costs.

In July 2020, Service NSW and Transport for NSW sent cheques to more than 3,338 plate holders (1,974 taxi providers) to a total value of \$9,253,900. Transport for NSW is continuing this measure for eligible recipients and will continue to monitor for re-registered wheelchair accessible taxis who become eligible.

Amendment of Motor Accident Guidelines

SIRA made changes to the Motor Accident Guidelines once the *COVID-19 Legislation Amendment (Emergency Measures) Act 2020* was passed by the NSW Parliament on 25 March 2020. This Act includes changes to the 2017 Act to relieve pressure on general practitioners and the overall health system during the COVID-19 pandemic.

These changes enable treating physiotherapists and psychologists, rather than a doctor, to provide second and subsequent certificates of fitness to certify an injured person's ability to work.

The Guidelines also require insurers to consider the health emergency caused by the COVID-19 pandemic on a claimant's circumstances when making decisions about a claim.

17. Appendices

1. Status report on SIRA actions to CTP insurance scheme recommendations from previous Law and Justice Committee reviews
2. Status report on SIRA actions to LTCS scheme recommendations from previous Law and Justice Committee reviews
3. List of SIRA documents and information sources

State Insurance Regulatory Authority – Submission to the Law and Justice Standing Committee 2020 Review of the Compulsory Third Party insurance and Lifetime Care and Support schemes

Appendix 1 – Status report on SIRA actions to recommendations from previous Law and Justice Committee reviews

The Committee's report on the 2018 review of the CTP insurance scheme included six recommendations for the NSW Government and SIRA. The Government provided its response to the Committee's report in August 2019. Out of the six recommendations, five (recommendations 1 to 5) were supported by the Government, and recommendation six was supported in principle. An update on action against the recommendations is set out below.

The Committee's first review of the CTP insurance scheme in 2016 included eight recommendations for the Government and SIRA. In SIRA's submission to the 2018 review, SIRA advised four recommendations (3, 4, 5, and 8) were addressed by the Government through the introduction of the 2017 CTP reforms, which resulted in the 2017 Act. A further recommendation (6) was also considered and addressed through the introduction of the 2017 reforms. Recommendations 1 and 2 were addressed in the Government response to the 2018 review, published in February 2017 and available on the NSW Parliament website. An update on the remaining recommendation (7) is set out below.

2016 and 2018 Review of the Compulsory Third Party insurance scheme recommendations			
Year	Recommendation	Status	Update
2016	Recommendation 7 That the State Insurance Regulatory Authority consult with the Motorcycle Council of NSW to consider consolidating the current five classifications of motorcycles in New South Wales into the following two classes: Learner Approved Motorcycle Scheme (LAMS) and non-LAMS.	Closed	The Motorcycle Council was consulted and advised that this would result in premium increases for some riders. In light of this, the Motorcycle council has revised its position and no longer seeks this change.
2018	Recommendation 1 That the State Insurance Regulatory Authority publish its evaluation of the Legal Advisory Service as soon as possible.	Closed	The Legal Advisory Service evaluation, undertaken by Dr Andrew Fronsco of the ADIIS Group and completed in May 2019. The report of the Independent Review of the operation of SIRA's Legal Advisory Service pilot made 12 recommendations. SIRA's response to the Report of the Independent Review of the Operation of SIRA's Legal Advisory Service Pilot has been published to the SIRA website. To date, SIRA has implemented six of the recommendations. Three recommendations pertaining to gathering feedback to improve the service are progressing and will be considered as part of SIRA's legal services review. One recommendation pertaining to the timing of proactive outbound call by CTP assist was considered but not accepted by SIRA as it would

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			<p>disrupt SIRA's overall approach to outbound calls and the ability to map and monitor customer feedback.</p> <p>Any significant changes to the Legal Advisory Service will continue to be updated on the SIRA website.</p>
2018	<p>Recommendation 2</p> <p>That the State Insurance Regulatory Authority provide the Standing Committee on Law and Justice with the file review of the first 1,000 claims of the new CTP Green Slip Scheme once it is finalised.</p>	Closed	<p>SIRA commissioned review reports to be conducted by John Walsh Centre for Rehabilitation Research (JWCRR) and the Australian Institute of Health Innovation (AIHI) for the first 1000 claims.</p> <p>Both research groups have completed and submitted the 52-week, 78-week and 104-week review reports to SIRA. SIRA has reviewed all reports and a finalised report will be posted on the SIRA website October/November 2020.</p>
2018	<p>Recommendation 3</p> <p>That the State Insurance Regulatory Authority expedite its work on the development and distribution of educational resources on the definition of minor injury for the benefit of injured road users in New South Wales.</p>	Closed	<p>SIRA developed information for injured road users and health providers regarding the definition of minor injury. SIRA also conducted and published 165 DRS Case studies and revised Insurer guidance notes. SIRA published these educational resources onto the SIRA website in October 2019.</p> <p>Concurrently, in 2019, SIRA undertook a review of the minor injury definition and provisions under the 2017 Act and scheme. The outcome of the review found that, overall, the minor injury definition and provisions were achieving the 2017 Act's objectives. SIRA published its report in February 2020 to the SIRA website.</p>
2018	<p>Recommendation 4</p> <p>That the State Insurance Regulatory Authority work with scheme insurers to develop a less onerous approach for insurers to provide comprehensive real time data to the authority.</p>	Closed	<p>Since the start of the 2017 Scheme, insurers have been able to provide real time claims data to SIRA as they implemented new and/or enhanced claims systems that enabled the transfer of data to SIRA.</p> <p>SIRA has continued to enhance the capabilities of the Claims Data Reporting solution (UCD) to reduce the administrative burden on insurers (particularly the designation of critical errors and correction time allowed) and provide analysis and reporting of data quality issues.</p> <p>In May 2020, SIRA released UCD Release 3 that included several changes to reduce the administrative burden for insurers, this built upon the relaxation of validation rules that was implemented in June 2019.</p>

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2018	Recommendation 5 <p>That the State Insurance Regulatory Authority, in consultation with the legal profession and insurers, develop comprehensive criteria to measure insurer performance in the CTP insurance scheme and publicly report this comparative data, on an annual basis.</p>	Closed	SIRA has developed a comparative insurer performance report (CTP Insurer claims experience and customer feedback comparison) in consultation with key stakeholders. The first issue was published on the SIRA website in June 2019 and reports continue to be published on a quarterly basis.
2018	Recommendation 6 <p>That the NSW Government investigate the cost of amending the Motor Accidents Injuries Act 2017 to ensure foreign tourists who are injured on New South Wales roads receive the same medical treatment benefits as Australian residents.</p>	Closed	In April 2020, SIRA researched from historical context, comparison with other states of similar matters, and conducted actuarial analysis of the cost of amending the 2017 Act. The SIRA policy position developed recommended that legislation not be amended based on all enquiries.

State Insurance Regulatory Authority – Submission to the Law and Justice Standing Committee 2020 Review of the Compulsory Third Party insurance and Lifetime Care and Support schemes

Appendix 2 – Status report on SIRA actions to recommendations from previous Law and Justice Committee reviews

The Committee's report on the 2018 review of the LTCS Scheme included one recommendation for the Government and icare. The Government provided its response to the Committee's report in July 2019, supporting the Committee's recommendation. No action was required by SIRA as a result of this recommendation.

The Committee's first review of the LTCS Scheme in 2016 included five recommendations for the Government, icare and SIRA. Two of the recommendations (1 and 4) required action by SIRA. In SIRA's submission to the 2018 LTCS Scheme review, SIRA advised recommendation 4 was completed. An update on the remaining recommendation (1) is set out below.

2017 Review of the Lifetime Care and Support Scheme recommendations			
Year	Recommendation	Status	Update
2017	<p>Recommendation 1</p> <p>That the State Insurance Regulatory Authority annual reports include details on a transfer strategy, which should:</p> <ul style="list-style-type: none"> a) assess claims management by insurers prior to transfer; b) publish all results of mismanagement by insurers; and c) publish the quantum recovered by insurers. 	Closed	<p>This recommendation refers to the CTP Care program (see section 13 above).</p> <p>Generally, icare Lifetime Care will assume responsibility for the payment of treatment and care to eligible people from December 2022 (five years from when the scheme commenced). There is provision for early by agreement transfers.</p> <p>As no injured people have transferred to the CTP Care program as at 30 September 2020 reporting was not provided in SIRA's annual report.</p> <p>SIRA will be reporting on CTP Care in SIRA's annual report and open data portal when transfers to CTP Care commence.</p>

Appendix 3 – List of SIRA documents and information sources (in alphabetical order)

SIRA documents and information sources

- [CTP Claims Experience and Customer Feedback Comparison report - June 2020](#)
- [CTP Open Data Portal](#)
- [Customer service conduct principles](#)
- [Dedicated COVID-19 section of the SIRA website](#)
- [Factsheet – CTP Care Transition](#)
- [Factsheet: Assessment of minor skin injuries](#)
- [Factsheet: Understanding minor injury](#)
- [Guidance Note: Contributory negligence](#)
- [Guidance Note: Earner](#)
- [Guidance Note: Internal review](#)
- [Guidance Note: Weekly benefits and employer paid leave](#)
- [List of all SIRA publications](#)
- [Minor injury: information for allied health professionals working in the NSW CTP scheme](#)
- [Minor injury: information for General Practitioners working in the NSW CTP scheme](#)
- [Motor Accident Guidelines](#)
- [Motor Accident Guidelines – Transitional excess profits and transitional excess losses, 30 September 2019](#)
- [Playlist of SIRA CTP animations videos on YouTube:](#)
 - [How to claim personal injury benefits](#)
 - [How to use the CTP online claims submission](#)
 - [Support while you recover \(statutory benefits\)](#)
 - [Certificate of capacity/fitness](#)
 - [How to apply for a claim for damages:](#)
 - [How to claim compensation for relatives](#)
 - [How to apply for funeral expenses](#)
 - [How to apply to the Legal Advisory Service](#)
 - [How CTP Green Slip premium prices are set](#)
 - [Merit review](#)
 - [How to apply for a Medical Dispute](#)
 - [What is CTP Assist](#)
- [Review of Regulatory Requirements for Healthcare Arrangements in the NSW Workers Compensation and CTP Schemes and submissions](#)
- [Roadmap for personal injury benefits](#)

Legislation

- [COVID-19 Legislation Amendment \(Emergency Measures\) Act 2020](#)
- [Motor Accidents Compensation Act 1999](#)
- [Motor Accident Injuries Act 2017](#)
- [State Insurance and Care Governance Act 2015](#)

State Insurance Regulatory Authority – Submission to the Law and Justice Standing Committee 2020 Review of the Compulsory Third Party insurance and Lifetime Care and Support schemes

Appendix 3 – List of SIRA documents and information sources (in alphabetical order)

Other

- CTP insurance scheme: 2016 summary of recommendations of the Legislative Council Standing Committee on Law and Justice
- CTP insurance scheme: Government response to the 2018 Legislative Council Standing Committee on Law and Justice
- CTP insurance scheme: 2018 report of the Legislative Council Standing Committee on Law and Justice with recommendations
- Final report of the Australian Prudential Regulation Authority Capability Review
- Final report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
- LTCS Scheme: 2017 summary of recommendations of the Legislative Council Standing Committee on Law and Justice